

1 SHERRIE M. FLYNN #240215
2 sflynn@ch-law.com
3 AISHA O. OTORI #342273
4 aotori@ch-law.com
5 COLEMAN & HOROWITT, LLP
6 Attorneys at Law
7 499 W. Shaw Ave., Ste. 116
8 Fresno, CA 93704
9 Telephone: (559) 248-4820
10 Facsimile: (559) 248-4830

11 Attorneys for Plaintiffs, HYPHY MUSIC INC., DOMINGO TORRES, and
12 ALFONSO VARGAS and Counter-Defendants, DOMINGO TORRES and
13 ALFONSO VARGAS

14 **UNITED STATES DISTRICT COURT**
15 **EASTERN DISTRICT OF CALIFORNIA**

16 HYPHY MUSIC INC., a California
17 corporation; DOMINGO TORRES, an
18 individual; and ALFONSO VARGAS,
19 an individual,

20 Plaintiff,

21 v.

22 YELLOWCAKE, INC., a California
23 corporation; COLONIZE MEDIA, INC.,
24 a California corporation; KEVIN
25 BERGER, an individual; JOSE DAVID
26 HERNANDEZ, an individual; JESUS
27 CHAVEZ, SR, an individual; JESUS
28 CHAVEZ, JR, an individual; PEDRO
CHAVEZ, an individual and JORGE
GARCIA, an individual.

Defendants.

AND RELATED COUNTER-CLAIM
ACTION.

Case No. 1-23-cv-00683-JLT-BAM
Assigned to Honorable Judge
Barbara A. McAuliffe

**STIPULATION TO AMEND
SCHEDULING ORDER AND
[PROPOSED] ORDER THEREON**

Complaint Filed: May 3, 2023
Counterclaim Filed: August 31, 2023
Trial Date: September 9, 2025

Pursuant to Federal Rules of Civil Procedure, Rule 16(b)(4), Plaintiff
HYPHY MUSIC INC. (“Hyphy”), and Plaintiffs and Counter-Defendants
DOMINGO TORRES (Torres”), and ALFONSO VARGAS (“Vargas”; collectively

1 with Hyphy and Torres, “Plaintiffs”), and Defendants YELLOWCAKE, INC.
2 (“Yellowcake”), COLONIZE MEDIA, INC. (“Colonize”), KEVIN BERGER
3 (“Berger”), JOSE DAVID HERNANDEZ (“Hernandez”), JESUS CHAVEZ, JR
4 (“Chavez Jr.”), PEDRO CHAVEZ (“P. Chavez”), and JORGE GARCIA (“Garcia”),
5 and Defendant and Counterclaimant JESUS CHAVEZ SR. (“Chavez Sr.”;
6 collectively with Yellowcake, Colonize, Berger, Hernandez, Chavez Jr., P. Chavez,
7 and Garcia, “Defendants,” and with Plaintiffs, the “Parties”) by and through their
8 respective counsel of record, hereby stipulate as follows:

9 WHEREAS on May 3, 2023, Plaintiffs filed the instant action for False and
10 Deceptive Advertising Under the Lanham Act, Rectification of Trademark
11 Registrations, Unfair Competition Under California Business and Professions Code,
12 False Advertising Under California Business and Professions Code, Intentional
13 Interference With Prospective Business Advantage, Breach of Fiduciary Duty In
14 Violation of California Corporations Code, Aiding and Abetting Breach of Fiduciary
15 Duty, and Money Had and Received (the “Action”);

16 WHEREAS on August 31, 2023, Defendants filed an Answer to the Complaint,
17 and Chavez Sr. filed a Counterclaim against Torres and Vargas for Federal Trademark
18 Infringement, Unfair Competition, State Law Trade Name Infringement, and Dilution
19 (the “Counterclaim”);

20 WHEREAS counsel for the Parties met and conferred, and on September 26,
21 2023, filed a Joint Scheduling Report;

22 WHEREAS on October 31, 2023, counsel for the Parties participated in a
23 Scheduling Conference before Magistrate Judge Barbara A. McAuliffe, and on that
24 same day, the Court issued an Initial Pretrial Scheduling Order (“Scheduling Order”)
25 in the instant Action, setting forth dates for close of discovery, expert designation,
26 supplemental expert designations, etc.;

27 WHEREAS the Parties have diligently engaged in discovery over the past
28 eight months, including:

- 1 1. On November 3, 2023, Chavez Sr. propounded Request for Production
2 of Documents to Hyphy, and Special Interrogatories on Hyphy, Torres,
3 and Vargas.
- 4 2. On December 11, 2023, Plaintiffs Torres and Vargas propounded
5 Requests for Production of Documents, Set One on defendant, Chavez
6 Sr.
- 7 3. On January 16, 2024, Plaintiffs' attorneys issued a subpoena on behalf
8 of Hyphy Music to third-party Blomberg Griffin Accountancy
9 Corporation (certified public accountancy firm for Los Originales de San
10 Juan band).
- 11 4. On January 17, 2024, Chavez Sr. propounded revised Special
12 Interrogatories on Torres and Vargas.
- 13 5. On March 22, 2024, Plaintiffs' attorneys issued a subpoena on behalf of
14 Hyphy Music to third-party SoundExchange.
- 15 6. On May 13, 2024, Torres and Vargas propounded Requests for
16 Production of Documents, Set One to Yellowcake, Inc., and Set Two to
17 Chavez Sr.

18 WHEREAS Chavez Sr.'s responses to Plaintiffs Torres and Vargas' Requests
19 for Production of Documents, Set One revealed numerous purchases at Table
20 Mountain Casino by Chavez Sr., which were debited against the band's bank account,
21 and prompted Torres and Vargas to propound Requests for Production of Documents,
22 Set Two to Chavez Sr. requesting, among other things, copies of Chavez' personal
23 taxes;

24 WHEREAS Chavez Sr.'s production of documents on June 28, 2024 to Torres
25 and Vargas' Requests for Production of Documents, Set Two, did not include the
26 requested tax returns, and additional time is necessary for the Parties to meet and
27 confer related to production of Chavez Sr.'s personal tax returns;

28 WHEREAS on June 28, 2024, after receiving Chavez Sr.'s responses to Torres

1 and Vargas' Request for Production of Documents, Set Two, Plaintiffs for the first
2 time discovered that Chavez Sr. received payments from UNIVERSAL MUSIC
3 GROUP and may have received payments from other record companies including but
4 not limited to EMI LATIN, and SONY MUSIC, which Plaintiffs contend were not
5 previously disclosed to the other band members. This newly discovered evidence is
6 highly relevant to central issues in this case, particularly concerning trademark
7 infringement, unfair competition, and breach of fiduciary duty and is likely to have a
8 significant impact on the outcome of this case;

9 WHEREAS additional time is necessary to subpoena records from Universal
10 Music Group, EMI LATIN, and SONY MUSIC and perhaps other entities to secure
11 documents and testimony critical to the claims and defenses in this case;

12 WHEREAS on July 31, 2024, the Parties attempted to reach a settlement of the
13 instant Action and Counterclaim through mediation before mediator, Diane Faber.

14 WHEREAS the Parties made progress but did not settle at mediation and are
15 now attempting to schedule a date for a continued mediation;

16 WHEREAS the Parties have conferred in good faith regarding the proposed
17 amendments to the Scheduling Order, all Parties involved agree with the proposed
18 amendments, and no prejudice will be caused to any Party as a result of the
19 amendments;

20 WHEREAS good cause exists to modify the Scheduling Order by ninety (90)
21 days to allow adequate time for the Parties to conduct additional discovery related to
22 the newly discovered evidence, meet and confer on previous discovery responses, and
23 properly prepare for additional mediation and/or trial in light of this evidence;

24 WHEREAS without adequate time to conduct discovery on this new evidence, the
25 Parties will be deprived of a fair opportunity to prepare for trial, resulting in
26 substantial prejudice;

27 WHEREAS the amendments do not change the dates previously set for the
28 pretrial conference and the trial, and the Parties intend to diligently comply with the

amended schedule to ensure timely resolution of the matter;

WHEREAS no previous modification of the Scheduling Conference Order has been requested.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the parties, subject to the approval of the Court, that the dates be amended as follows:

STIPULATION

Description	Current Date	Proposed Dates
Non-Expert Discovery Cut-off	September 13, 2024	December 13, 2024
Expert Disclosure	October 11, 2024	January 13, 2025
Supplemental Expert Disclosure	November 8, 2024	February 7, 2025
Expert Discovery Cutoff	December 19, 2024	March 19, 2025
Pretrial Motion Filing Deadline	January 24, 2025	April 25, 2025
Pretrial Conference	June 23, 2025	No Change
Jury Trial	September 9, 2025	No Change

Dated: August 16, 2024

COLEMAN & HOROWITT, LLP

By: /s/ Sherrie M. Flynn
 SHERRIE M. FLYNN
 AISHA O. OTORI
 Attorneys for Plaintiffs HYPHY MUSIC, INC., DOMINGO TORRES and ALFONSO VARGAS, and Counter-Defendants, DOMINGO TORRES and ALFONSO VARGAS

Dated: August 16, 2024

LAW OFFICE OF LARRY ZERNER

By: /s/ Larry Zerner
 LARRY ZERNER
 Attorneys for Defendants, YELLOWCAKE, INC., COLONIZE MEDIA, INC., KEVIN BERGER, JOSE DAVID HERNANDEZ, JESUS CHAVEZ, SR, JESUS CHAVEZ, JR, PEDRO CHAVEZ, and JORGE GARCIA, and Counterclaimant, JESUS CHAVEZ, SR.

ORDER

The Parties having stipulated and good cause appearing, **IT IS SO ORDERED** that the Scheduling Order dates are amended as follows:

Description	Current Date	Proposed Dates
Non-Expert Discovery Cutoff	September 13, 2024	December 11, 2024
Expert Disclosure	October 11, 2024	January 13, 2025
Supplemental Expert Disclosure	November 8, 2024	February 7, 2025
Expert Discovery Cutoff	December 19, 2024	March 19, 2025
Pretrial Motion Filing Deadline	January 24, 2025	April 25, 2025
Pretrial Conference	June 23, 2025	June 23, 2025 1:30 p.m. Courtroom 4 (JLT)
Jury Trial	September 9, 2025	September 9, 2025 8:30 AM Courtroom 4 (JLT)

The parties are reminded, for any future requests for a continuance, that settlement discussions are not good cause to continue dates.

IT IS SO ORDERED.

Dated: August 19, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE